

IN THE MICHIGAN COURT OF APPEALS

ORDER

Re: **Lurone Lee v Department of Corrections**
Docket No. **260587**
L.C. No. **01-004876-AW**

William C. Whitbeck, Chief Judge, acting under MCR 7.203(F)(1) and 7.216(A)(10), orders:

The application for delayed appeal and motion for appointment of counsel filed February 4, 2005, are **DISMISSED** for lack of jurisdiction because the application was not filed within 12 months of the dismissal order entered on December 31, 2003, as required by MCR 7.205(F)(3). It is true that appellant filed some postjudgment motions that were disposed of within 12 months of February 4, 2005, but because the motions were not filed within 21 days of December 31, 2003, the decision on those motions did not restart the 12 month period for filing the application for leave to appeal. See MCR 7.205(F)(3)(a) and (b).

The motion to file a late application for leave to appeal is **DENIED** because MCR 7.216(A) only applies to a nonjurisdictional act. The 12 month time period to file an application is a jurisdictional act.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

APR - 1 2005

Date

Sandra Schultz Mengel
Chief Clerk